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A P R O F E S S I O N A L C O R P O R A T I O N
• L A W O F F I C E S •

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October 16, 2019



The Honorable William H. Orrick
United States District Court for the
Northern District of California
San Francisco Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

*Re: In Re: JUUL Labs, Marketing Sales Practices, and Products
Liability Litigation – MDL 2913*

Dear Judge Orrick:

General Background

I submit this application for appointment to a seat on Plaintiffs' Executive Committee in the above-captioned action. Attached as Exhibit A is my abbreviated resume. However, I will briefly outline my background. I have been practicing for thirty-five years primarily in New York and New Jersey in the fields of pharmaceutical and medical device product liability and toxic torts. I am a graduate of Cornell University (1980) and Rutgers Law School (1984). I have been practicing for the last two decades at Weitz & Luxenberg, P.C. in New York City and Cherry Hill, New Jersey. I am certified by the New Jersey Supreme Court as a Certified Civil Trial Attorney. I am an elected member of the American Law Institute, an invited member of the American Bar Foundation, and am a former President of the Roscoe Pound Civil Justice Institute and served for several years on the Board of Visitors of the University of California at Irvine Law School under then Dean Erwin Chemerinsky. I am Co-Chair of the Mass Tort Roundtable of the Institute for Complex Litigation & Mass Claims at Emory University School of Law. To date, I have filed two JUUL cases involving serious pulmonary injury, *Gulch v. JUUL Labs, Inc., et al.* (EDPA Dkt #19-cv-4821), and *Nigro v. JUUL Labs, Inc., et al.* (NDNY; docket number pending) and anticipate filing additional cases as we screen those under investigation,

MDL/MCL Experience

I was appointed in 2011 by the Honorable David Katz to serve as co-lead counsel in the *In Re: DePuy Orthopaedics ASR Hip Products* MDL 2197 litigation. I was flattered to have

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been called by Judge Katz requesting that I fill that role after he knew my work from a prior role in 2006-2009 on the Executive Committee of the *In Re: Ortho Evra Products Liability Litigation*, MDL 1742 which he managed. Judge Katz was aware of my involvement on state level mass torts and my ability to ensure cooperation between state and federal litigants. As co-lead counsel of the ASR MDL, I co-managed the discovery and trial strategy as well as played a key role in negotiating the \$2.5 billion settlement for 8,000 victims of the metal on metal failed hip implant. I continue to manage the litigation and settlement of more recent cases not included in the earlier global settlements. Sadly Judge Katz passed away in 2016. Judge Jeffrey Helmick of the N.D. of Ohio has taken over that MDL. His Chambers number is 419-213-5690 and his email is Jeffrey_Helmick@ohnd.uscourts.gov.

In 2012, I was appointed by the Hon. Brian Martinotti, then a state court judge with the New Jersey Superior Court in Bergen County to serve as Chair of the Plaintiffs' Steering Committee and Liaison Counsel in the New Jersey Multicounty Litigation (MCL) for the *In Re: Stryker Rejuvenate/ABG II Modular Hip Litigation*. In that role I managed along with colleagues, the discovery, bellwether mediations and was a member of the small negotiating team for a billion + dollar settlement compensating more than 3,000 plaintiffs. (See https://fordhamlawreview.org/wp-content/uploads/2017/03/Zimmerman_April.pdf, a law review article addressing that novel settlement process) I have also served as lead or liaison counsel in a variety of other New Jersey consolidated mass torts now known as "Multicounty Litigations" involving the products Phenylpropanolamine, Yaz and Yasmin, and Stryker Trident Hips.

I was appointed in January 2017 by the Honorable Brian Martinotti (who joined the federal bench) to serve on the Executive Committee in *In Re: Invokana Products Liability Litigation*, MDL 2750 in the District of New Jersey. After an intense period of litigation, that MDL is mostly resolved. His phone number is (973) 645-4702 and email is: njdnef_martinotti@njd.uscourts.gov.

In June of 2017 I was appointed by the Honorable Indira Talwani of the District of Massachusetts to serve on the Executive Committee and to be federal state liaison in the litigation entitled *In Re: Stryker LFIT V40 Femoral Head Products Liability Litigation* MDL 2768. In addition to work on expert and bellwether issues, I was involved in negotiating a settlement involving the vast majority of cases in suit up until the settlement announcement in 2018. Judge Talwani's chambers phone is (617) 748-4007 and she can be emailed through her Courtroom Clerk gail_macdonald@mad.uscourts.gov. I also served and serve as Lead Counsel in the parallel state litigation in Bergen County, New Jersey having been appointed by the Honorable Rachelle Harz. Her contact information is (201)527-2685 and Rachelle.Harz@njcourts.gov. The federal and state litigations worked seamlessly together having conducted joint hearings including a "Science Day."

Also in June of 2017 I was appointed as co-lead counsel in the litigation *In Re: Farxiga Product Liability Litigation* MDL 2776 and am pleased to report that the relatively small litigation proceeded at a brisk pace, resulting in resolution of the cases and the MDL has now been formally closed (perhaps the shortest lasting MDL on record). The contact information for Judge Lorna G. Schofield of the S.D.N.Y is (212) 805-0288 and

Schofield_NYSDChambers@nysd.uscourts.gov. I am very proud in that litigation to have served with a number of terrific younger female attorneys who I had the opportunity to mentor as they were given the opportunity to take depositions and present an expert at Science Day.

In October of 2015 I was appointed by Honorable Eldon E. Fallon to the Plaintiffs' Steering Committee in *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, US District Court, Eastern District of Louisiana where I served as co-chair of the Bellwether Committee. Judge Fallon's contacts are (504) 589-7545 and Eldon_Fallon@laed.uscourts.gov. In that litigation I worked with a number of other lawyers who are also seeking leadership positions in this litigation and we have a good history of working well together (Michael London, Brad Honnold, Neil Overholtz and Emily Jeffcott, Michael Weinkowitz).

Last but certainly not least, my most recent appointment was by Judge Dan Polster to the Executive Committee of the National Prescription Opiate Litigation on January 4, 2018. His contact is (216) 357-7190 and polster_chambers@ohnd.uscourts.gov although he is likely not reachable due to the imminent bellwether trial in Cleveland. Since I am not part of the trial team and my work in fact and expert discovery is largely complete this juncture, I believe my time has been freed up to take on this equally important litigation.

Willingness to Work and Resources

It is my belief that I have had successful involvement in numerous MDL and state court litigations in part due to my ability to work well with others, including my adversaries, to advance the litigation in a professional and courteous manner while zealously representing the plaintiffs. I do support the proposed structure of co-leads, Executive Committee, and Plaintiff Steering Committee set forth in Exhibit 2, which I believe is necessary given the scope of this litigation (various and disparate injuries including addiction, pulmonary damage, and cerebrovascular injuries as well as class action relief). It is my understanding that the persons on Exhibit 2 support my application and I support their applications. I anticipate appointed leadership will work well together. Many of us have worked together in a variety of litigations including most notably the Opioid and Xarelto litigations.

As to resources, Weitz & Luxenberg is one of the largest plaintiff-only law firms with approximately one hundred lawyers in its offices in NYC, Cherry Hill, New Jersey, Detroit, Michigan and Los Angeles, California. I expect to devote a substantial amount of my time and have strong support from my fellow attorneys and paralegals at the firm who are very interested in this compelling litigation. Weitz & Luxenberg has the financial ability to make the necessary common benefit assessment contributions required to take on such an important and complex litigation such as this. As to other considerations, I should say that my youngest daughter is a high school teacher in Ithaca, New York and she keeps me informed of the rampant and disturbing vaping trend she has observed in her young students. This has compelled me to believe that this is one of the most socially important litigations and I hope to work to abate that pernicious trend.

Respectfully,


Ellen Relkin

Enclosures